



Volume I
November 2007

**Montana
Division of Banking and
Financial Institutions**

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Mission Statement

It is the mission of the Division of Banking and Financial Institutions to protect Montanans by regulating state-chartered and licensed financial institutions under its supervision.

Montana Division of Banking and Financial Institutions



Division of Banking and Financial Institutions - 2007

New Law Requires Licensing and Regulation of Residential Mortgage Lenders

The Montana Division of Banking and Financial Institutions will be regulating and licensing residential mortgage lenders as a result of a new law passed during the 2007 Regular Legislative Session.

This new licensing requirement was created by the Montana Residential Mortgage Lender Licensing Act (Act), which was signed into

law by Governor Brian Schweitzer on May 3, 2007 as part of House Bill 69 (HB 69). The Act requires companies engaged in the business of making Montana residential mortgage loans to be licensed as of October 1, 2008.

"The purchase of a home is the single largest and most complex financial transac-

tion that most Montanans will face during their lives," said Annie M. Goodwin, Commissioner of the Montana Division of Banking and Financial Institutions. "This new licensing law will afford greater protection to Montana consumers who may seek financing through a mortgage lender regulated under this Act."

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Special points of interest:

- *New Regulation of Residential Mortgage Lenders*
- *Commissioner's Comments: New Legislation*
- *Proposed Administrative Rules*
- *Customer Information Protection Guidance*
- *Banking and Consumer Finance Regulatory Information*

COMMISSIONER'S COMMENTS

Annie M. Goodwin

The 2007 Montana Regular Legislative Session has resulted in significant changes to the regulation and operation of our state financial institutions. Overall the Division introduced five bills that were passed during this session.

The Division appreciates the leadership and hard work of our legislative sponsors to Division bills. Representative Hal Jacobson, HD 82 of Helena, sponsored the revisions to the Montana Consumer Loan Act. Senator Larry Jent, SD 32 of Bozeman, sponsored the revisions to the Montana Title Loan Act. Senator Donald Steinbeisser, SD 19 of Sidney, sponsored the revisions to the Montana Mortgage Broker and Loan Originator Licensing Act. Senator John Brueggeman, SD 6 of Polson, sponsored the revisions to the Montana Deferred Deposit Loan Act. Representative Walter McNutt, HD 37 of Sidney, carried the Montana Residential Mortgage Lender Licensing Act.

I also wish to thank Steve Turkiewicz of the Montana Bankers Association, Steven Yeakel of the Montana Independent Bankers Association, Tracie Kenyon of the Montana Credit Union Network, Cyndi Rigler and Kristi Blazer of the Montana Association of Mortgage Brokers, Jerry Loendorf of the Montana Consumer Finance Association, Bernie Harrington of the Montana Financial Services Association, and Riley Johnson of the Community Fi-

nancial Services Association for their support of the Division's legislative and budget proposals during the legislative session.

Provisions of the Mortgage Broker amendments were effective October 1, 2007 and include: repealing the grandfathering provisions; requiring the designated manager to be located in Montana; clarifying that each branch must maintain a \$25,000 bond or letter of credit; establishing the mortgage broker relocation processes; expanding the record maintenance requirements to enable the Division to determine compliance; including the Division's contact information to the mortgage loan origination disclosure; providing discretion by the Division in assessing civil money penalties; providing authority for the Division to refer matters to law enforcement; and adding that borrowers are not required to pay all third party fees.

Provisions of the Title Loan amendments were effective October 1, 2007 and include: removing the licensing exemption for pawnbrokers; including title lenders in the definition of a regulated lender; defining a title loan as a nonpurchase money loan secured by an unencumbered certificate of title or certificate of ownership that is designated as a title loan by the Division; and clarifying limitations on title loans and requirements of title loan agreements.

Provisions of the Deferred Deposit Loan amendments were effective October 1, 2007 and include: requiring out-of-state and



Internet persons doing business to obtain licenses; increasing licensing fees and renewal fees to \$500; expanding the definition of a check to include negotiable instruments drawn on credit unions and savings and loan associations; prohibiting a borrower from obtaining a payday loan if that borrower already has another outstanding payday loan; and including deferred deposit lenders in the definition of a regulated lender.

Provisions of the Consumer Loan amendments effective October 1, 2007 pertain to the increase in initial and renewal licensing fees to \$500 and deleting the requirement for the supplemental license. The other amendments to this Act are effective October 1, 2008 to coincide with the effective date of the Montana Residential Mortgage Lender Licensing Act. These later amendments will delete the mortgage lending provisions from the Consumer Loan Act.

For more information about this legislation please visit <http://banking.mt.gov/recentlegislation.asp>. Complete printable copies of the revised Acts are also available at <http://banking.mt.gov/statuteandrules.asp>.

Proposed Administrative Rules

The Division has proposed administrative rules related to the following programs.

Consumer Loan

On September 20, 2007 the Division published MAR Notice No. 2-59-384, which pertains to the proposed amendment of ARM 2.59.301, 2.59.302, and 2.59.308 pertaining to the regulation of consumer loan licensees and the proposed adoption of NEW RULES I through VII regarding notification to the department, examinations, suspension, and revocation of licenses, protection of confidential borrower information, application procedure required to engage in consumer lending, default, and accrual of interest or amortization of net fees or costs.

Mortgage Broker

On September 20, 2007 the Division published MAR Notice No. 2-59-385, which pertains to the proposed amendment of ARM 2.59.1701 through 2.59.1705 and 2.59.1710 pertaining to the licensing and regulation of mortgage brokers and loan originators and the proposed adoption of NEW RULES I through XII regarding continuing education, preclicensing examination, fees, nontraditional mortgage products, designated managers, yield spread premium, examinations, failure to correct deficiencies, protection of confidential borrower information, grounds for denial of applications, requirements for renewal applications, and department's cost of administrative action.

Title Loan

On September 20, 2007 the Division published MAR Notice No. 2-59-386, which pertains to the proposed amendment of ARM 2.59.1401, 2.59.1406, 2.59.1409, 2.59.1410, 2.59.1413, and 2.59.1417 pertaining to the regulation of title lenders and the proposed adoption of NEW RULES I through XII regarding notification to the department, rescinded loans, examinations, suspension, and revocation of licenses, protection of confidential borrower information, department's cost of administrative action, policy to implement limitations on terms of credit to servicemembers and dependents, examination fees, required record keeping, accrual of interest, unlicensed activity, and title loan designation.

Deferred Deposit Loan

On September 20, 2007 the Division published MAR Notice No. 2-59-387, which pertains to the proposed amendment of ARM 2.59.1501, 2.59.1502, 2.59.1505, through 2.59.1508, 2.59.1512, and 2.59.1513 pertaining to the regulation of deferred deposit lenders and the proposed adoption of NEW RULES I through VIII regarding affidavit of borrower, rescinded loans, examinations, suspension, and revocation of licenses, protection of confidential borrower information, department's cost of administrative action, policy to implement limitations on terms of credit to servicemembers and dependents, and examination fees.

Banks

On October 4, 2007 the Division published MAR Notice No. 2-59-389, which pertains to the proposed amendment of ARM 2.59.104 pertaining to the semi-annual assessment of banks.

Credit Unions

On October 4, 2007 the Division published MAR Notice No. 2-59-390, which pertains to the proposed amendment of ARM 2.59.401 pertaining to credit union supervisory and examination fees.

Business and Industrial Development Corporations

On October 4, 2007 the Division published MAR Notice No. 2-59-391, which pertains to the proposed adoption of New Rule I pertaining to examination fees for business and industrial development corporations.

The final version of these administrative rules will be published in the Montana Administrative Register and mailed to all licensees and interested persons. All administrative rule notices are available online at <http://doa.mt.gov/administrativerules.asp>

Interested Persons

Please contact Chris Romano by phone (406-841-2928) or email (cromano@mt.gov) if you would like to be added to the list of interested persons related to any proposed administrative rules.

New Law Requires Regulation of Residential Mortgage Lenders

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The Act requires the licensing of business entities as well as any branch offices that will be engaged in making Montana residential mortgage loans. Licensing fees for the business entity will be \$750.00 and each subsequent branch location will be \$250.00. Licenses will be renewed annually and will expire on September 30.

Mortgage lender license applicants will be subject to a background check, which includes a review of criminal records to ensure that the applicant has the experience, character and general fitness to be licensed. Persons convicted of a crime within the past ten years or that have been held liable in a civil action by final judgment or administrative judgment within the past seven years shall not serve as an officer, director, partner, or shareholder controlling 10% or more of the mortgage lender without written approval from the department. The offenses include robbery, burglary, theft, embezzlement and similar financial crimes.

Licensees will be required to have their books and accounts audited by an independent certified public accountant within 180 days of their fiscal year-end. This audit report must be filed with the Division. All books, accounts, records and documents must be maintained by a licensee for a period of five (5) years from the date of the last entry. In addition, licensees must continuously maintain a surety

bond. The amount of this surety bond will be established by administrative rule.

The Act provides the Division authority to perform on-site examinations, which would include a review of a lender's books, records and loan files. This law affords the Division the ability to investigate consumer complaints and violations of the Act. It also allows the Division to issue cease and desist orders, to issue subpoenas, to suspend or revoke licenses and to impose civil penalties not to exceed \$10,000 for each violation of the Act.

Financial institutions defined within the Act as state, national or federal banks, savings banks, saving and loan associations, credit unions and trust companies are exempt from the provisions of the Act. This exemption also applies to operating subsidiaries of these financial institutions. Further exemptions are also outlined in Section 32-10-207, MCA.

Application forms and administrative rule notices will be posted on the Division's mortgage lender webpage as they become available at <http://banking.mt.gov/mortgagelender.asp>

For more information and questions about this new licensing requirement please contact the Division at (406) 841-2920. A link to the most recent version of HB 69 can be found online at <http://banking.mt.gov/>

Division Award Recipients

The Division would like to recognize Commissioner Annie Goodwin who was the recipient of the 2007 Interagency Committee for Change by Women (ICCW) Excellence in Leadership Award. Commissioner Goodwin was selected as the award recipient from the State Government category.

The ICCW was established by Executive Order of the Governor in 1976 to create positive change for all state employees by promoting the full participation of women in state government. Commissioner Goodwin is Montana's first female banking commissioner. She was appointed to the position in May of 2001 and has over 20 years of distinguished service with the State of Montana. Commissioner Goodwin has worked to improve the professionalism of the Division's staff through the creation of a career ladder program as well as supporting training opportunities. Under her direction, the Division received professional accreditation with the Conference of State Bank Supervisors.

The Division would also like recognize Consumer Finance Examination Manager Kris Leitheiser who was the recent recipient of the Department of Administration, Division of Banking and Financial Institutions 2007 Employee of the Year Award. Kris was instrumental in drafting and working on legislation passed during the 2007 Regular Legislative Session, which created licensing and regulation of residential mortgage lenders. She has worked for the Banking Division since 1992.

Consumer Finance Regulatory News

Customer Information Protection Guidance

The Division has issued guidance relative to the protection of consumer information. This guidance addresses what information must be provided to customers that may have had their information compromised. In addition, it sets forth the reporting of discovered or suspected losses of personal consumer information. A link to the guidance can be found online at the Division's website at <http://banking.mt.gov/pdf/CustomerInformationProtectionGuidance.pdf>. In addition, the Division has also provided a form that licensees should use when notifying the Division of a theft within their business. This form is contained within the document containing the customer information protection guidance.

Consumer Lending to Military Personnel

The John Warner National Defense Authorization Act for Fiscal Year 2007 Section 670, P.L. 109-364 was effective on October 1, 2007. This legislation applies to both title loan and deferred deposit loan licensees in Montana. This Act amends the Servicemembers Civil Relief Act to provide terms of consumer credit extended to servicemembers or their dependents, including a credit interest limit of 36% annually. It provides mandatory loan disclosure requirements, including a statement of the annual percentage rate and a clear description of payment obligations. The Act also preempts any contrary federal or state law and

provides penalties for creditor violations. The Department of Defense has issued its final rules to implement this Act. The rules, which were also effective October 1, 2007, are intended to regulate the terms of consumer credit extended to active duty servicemembers and their dependents. The following is the link to these final rules:

https://www.federalreserve.gov/boarddocs/caletters/2007/0705/07-05_attachment.pdf

Licensee Notifications

All consumer finance licensees including consumer loan and sales finance companies, title lenders, deferred deposit lenders, mortgage brokers and escrow businesses must provide written notification of the following:

- Any change in the physical address of licensed principal or branch offices
- Any change in the ownership of the licensee
- Any change in the officers or directors of the licensee
- Any change in the manager of the licensed primary or branch office (deferred deposit and title loan only)
- Any change in the designated manager (mortgage broker only)
- Any change in the name of the licensee (includes the usage of assumed business names)
- Any termination of individual licensees (mortgage broker and loan originator licensees)

- Any closure of a principal or branch office

Please note that all original licenses must be returned in order to be amended.

Licensing Renewals

Consumer Loan: Renewal due by December 1, 2007 (License expires December 31, 2007). Renewal forms available online at <http://banking.mt.gov/consumerloan.asp>

Deferred Deposit Loan: Renewal due by December 1, 2007 (License expires December 31, 2007). Renewal forms available online at <http://banking.mt.gov/ddl.asp>

Title Loan: Renewal due by December 1, 2007 (License expires December 31, 2007). Renewal forms available online at <http://banking.mt.gov/title.asp>

Sales Finance: Renewal due by December 1, 2007 (License expires December 31, 2007). Renewal forms available online at <http://banking.mt.gov/salesfinance.asp>

Failure to provide all renewal information by the deadline stated above will require an entity to reapply for its license.

Non-Depository Licensees by the Numbers

Consumer Loan: 280
Sales Finance: 156
Title Loan: 25
Deferred Deposit Loan: 112
Escrow Businesses: 7
Mortgage Broker: 306
Loan Originator: 270

As of 10/15/2007

Banking Regulatory News

Financial Examiner Recruitment

The Division frequently recruits financial examiners that are assigned to either the Helena or Billings offices. A financial examiner's primary responsibilities are performing examinations of state-chartered and licensed financial institutions.

The knowledge and skills necessary for a financial examiner include, but are not limited to basic awareness of the principles and practices of banking, consumer and mortgage lending, business administration, accounting, and auditing and are typically acquired through a Bachelors degree in Business Administration, Banking, Finance, Accounting, or other related business field and up to five or more years of job related work experience.

The financial examiner positions require extensive overnight travel and occasional extended hours. Starting salary will range from \$32,533 to \$48,800. For current State of Montana job vacancies please feel free to visit <http://mt.gov/statejobs/statejobs.asp>. To be notified of future financial examiner vacancies please contact Chris Romano at (406) 841-2928.

Save the Date: CSBS Director's Seminar

The CSBS Bank Director's Seminar will be held in Coeur d'Alene from September 7-9, 2008.

Credit Union Call Reports

Credit union call reports are due January 22, 2008.

Office Security

For the safety of your staff and customers, the Division strongly urges you to verify the identity of any individuals representing themselves as examiners, auditors, or other workers needing access to the protected areas of your institution.

Report of Condition

Montana statute requires that Call Reports be filed with the Division no later than 30 days after the call. Call reports are due January 30, 2008 for the December 31 call date. Since the Division does not require original signatures on page 1 of the report, banks should ensure that original signatures for each Call Report are kept on file at the bank.

Mergers

- Flathead Credit Union (Kalispell) with and into Parkside Federal Credit Union (Whitefish)

Bank Branch Approvals

- West One Bank (Kalispell) Kalispell, Montana
- First Interstate Bank (Billings) Bigfork, Montana
- First Community Bank (Glasgow) Belgrade, Montana
- Yellowstone Bank (Laurel) Bozeman, Montana
- Farmers State Bank (Victor) Missoula, Montana
- Community Bank (Missoula) Missoula, Montana

- Dutton State Bank (Dutton) White Sulphur Springs, Montana
- Glacier Bank of Whitefish Whitefish, Montana
- Treasure State Bank (Missoula) Missoula, Montana
- Basin State Bank (Stanford) Geraldine, Montana
- Flathead Bank of Bigfork (Bigfork) Kalispell, Montana

This includes all branches approved by the Division since 1/1/2007.

Dividend Declaration for Banks

A Dividend Declaration Notice is required for all banks each time a dividend is declared by the Board of Directors. Pursuant to Section 32-1-232, MCA, the Dividend Declaration Notice must be submitted to the Division within 10 days of declaration.

Gift Acceptance

Employees of the Division are prohibited from accepting any gift from any financial institution supervised by the Division. Please be advised that this includes meals.

Institutions by the Numbers

Banks: 64

Trust Companies: 2

Credit Unions: 11

As of 10/15/2007

Where is it?

The Division of Banking and Financial Institutions home page is located at:

<http://banking.mt.gov>

Montana Laws - http://leg.mt.gov/css/mtcode_const/laws.asp, Click on "Montana Code Annotated, 2007."

Administrative Rules of Montana—<http://arm.sos.mt.gov>

FDIC — www.fdic.gov

Federal Reserve System Board of Governors — www.federalreserve.gov

Federal Financial Institutions Examination Council (FFIEC) — www.ffiec.gov

National Credit Union Administration — www.ncua.gov

National Association of State Credit Union Supervisors — www.nascus.org

Conference of State Bank Supervisors—<http://www.csbs.org/>

American Association of Residential Mortgage Regulators — <http://www.aarmr.org>

National Association of Consumer Credit Administrators (NACCA) — www.naccaonline.org

Federal Trade Commission (FTC) — www.ftc.gov

Staff News and Training

The Division would like to recognize the following achievements of its staff:

Darrin Maas was promoted to Examination Manager of the Billings Field Office. Darrin has worked as a Bank Examiner for the Division since 2001. Paul Staudohar was promoted to Training Coordinator. Paul will also continue to work as a Senior Bank Examiner. He has worked with the Division as a Bank Examiner since 1985. Kris Leitheiser, Consumer Finance Examination Manager, was elected Second Vice President of the National Association of Consumer Credit Administrators. The Division would also like to thank Darryl Redman and Barry Smith who both retired in June. Darryl had worked with the Division since 1980 and was most recently the Examination Manager of the Billings Field Office. Barry had worked with the Division since 1991 and was most recently the Training Coordinator/Senior Bank Examiner. Barry will be re-joining the Division on a part-time basis as an examiner in the Billings Field Office.

The Division would like to welcome the following new staff:

Kelly O'Sullivan began in July as the Division's legal counsel. She had previously worked in civil litigation for the Montana Attorney General's office for the past 18 years. In addition, Kelly also worked for the Montana State Auditor's office, Banking Division of the Idaho Department of Finance and Child Support Enforcement. Kelly is a graduate of the University of Montana Law School. Broc Criswell has recently begun working as trainee bank examiner for the Billings Field Office. Broc, a graduate of Rocky Mountain College in Billings, had most recently worked as a loan officer at Little Horn State Bank.

Division staff have recently attended the following professional education training and conferences:

Bob Fitzsimmons, CSBS Bank Director's Seminar; Darrin Maas, CSBS Technology Seminar; Kris Leitheiser, AARMR Annual Conference; Paul Staudohar, CSBS Examiner Education Forum; Noela Taylor and Jerry Stier, Federal Reserve Bank Fair Lending Examination Techniques; Kelly Solan and Broc Criswell, CSBS Operations School; Shelly Lee and Victoria Bakken, CSBS Examiner-In-Charge School, Shelly Lee, FDIC Capital Markets Conference; Kris Leitheiser and Kelly O'Sullivan, NACCA Annual Meeting; Chris Olson, NASCUS Annual Meeting; Kelly O'Sullivan, CSBS Legal Seminar; Noela Taylor and Jerry Stier Federal Reserve Bank Intro. to Consumer Compliance II; Annie Goodwin, NCUA Regional Regulators Meeting; and Rick Christianson, FFIEC Anti-Money Laundering School.

DIVISION OF BANKING & FINANCIAL INSTITUTIONS

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Helena Staff

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Bob Fitzsimmons, Deputy Commissioner	841-2920
Jim Darfler, Bank Analyst	841-2920
Kelly O'Sullivan, Attorney	841-2920
Christopher Romano, Office Manager	841-2928
Karen Dimmitt, Program Specialist	841-2945
Donna Zollinger, Administrative Support	841-2920
Linda Leffler, Administrative Support	841-2932

Credit Union Examiners

John Ross, Examination Manager	841-2925
John Morgan, Assistant Examiner	841-2919

STATE BANKING BOARD

Mark Huber	US Bank	Helena
John King	Three Rivers Bank	Kalispell
Jon Redlin	Stockman Bank	Sidney
Evelyn Casterline	Public Member	Vida
Carolyn Colman	Public Member	Bozeman
Russell Ritter	Public Member	Helena

Helena Bank Examiners

David Novotny, Examination Manager	841-2938
Paul Staudohar, Senior Examiner	841-2939
Patricia Doherty, Senior Examiner	841-2922
Shelly Lee, Bank Examiner	841-2924
Tammy Peltomaa, Assistant Examiner	841-2941
Michael Duffy, Trainee Examiner	841-2917
Eric Hayhurst	841-2920

Billings Bank Examiners

Darrin Maas, Examination Manager	248-2742
Barry Smith, Senior Examiner	248-2742
Victoria Bakken, Bank Examiner	248-2742
Rick Christianson, Assistant Examiner	248-2742
Joseph Kuntz, Assistant Examiner	248-2742
Kelly Solan, Trainee Examiner	248-2742
Broc Criswell, Trainee Examiner	248-2742
Carra Greyn, Trainee Bank Examiner	248-2742

Consumer Finance Examiners

Kris Leitheiser, Examination Manager	841-2936
Gary Mariegard, Examiner	841-2942
Vikki Gredyk, Examiner	841-2924
Paul Reynolds, Examiner	841-2937
Noela Taylor, Examiner	841-2940
Jerry Stier, Examiner	841-2947